

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION

UNITED STATES OF AMERICA

V.

CRIMINAL NO. 2:09cr12KS-MTP

GARY MARK STEWART
GAVIN S. STEWART

PRELIMINARY ORDER OF FORFEITURE

THIS MATTER comes before the Court on Motion by the Government for a Preliminary Order of Forfeiture. After a hearing on said Motion, and pursuant to the opinion entered by this Court on August 23, 2010 (Doc. No. 477), the Court finds as follows:

1. On June 16, 2009 an indictment was filed against the defendants, **GARY MARK STEWART** and **GAVIN S. STEWART**. On July 21, 2009, a superseding indictment was filed charging the defendants with conspiring to possess with the intent to distribute more than five hundred (500) grams of methamphetamine, in violation of Title 21, United States Code, Section 846.

2. The superseding indictment also included a Notice of Forfeiture seeking the forfeiture, pursuant to Title 21 U.S.C. § 853, of all property constituting or derived from, any proceeds obtained, directly or indirectly, as a result of such violation and any and all of the property of the defendants used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation. The Notice of Forfeiture also put the defendants on notice that, in the event the United States could not locate the proceeds or facilitating property subject to forfeiture because it could not be located or had been transferred or sold, or deposited with a third party, or substantially diminished in value, then the United States intended to seek a judgment of forfeiture of any other property of the defendants.

3 On January 28, 2010, the defendant, **GARY MARK STEWART**, pled guilty to Count three (3) of the superseding Indictment charging him with conspiring to possess with the intent to distribute more than five hundred (500) grams of methamphetamine in violation of Title 21 U.S.C. § 846.

4. The following property was included in the Government's Motion for a Preliminary Order of Forfeiture as property belonging to defendant **GARY MARK STEWART** which the Government sought to be forfeited:

PERSONAL PROPERTY

\$23,922.39 in Trustmark National Bank Account seized from Gary Stewart

\$2,918.27 in Trustmark National Bank Account seized from Gary Stewart

\$704.11 in Trustmark National Bank Account seized from Gary Stewart

\$534.97 in Citizens Bank Account seized from Gary Stewart

\$3,030.00 in U. S. Currency seized from Gary Stewart

\$19,727.89 in U. S. Currency seized from Gary Stewart

One 2003 Harley Davidson Motorcycle VIN 1HD1BYB123Y070316

One 1999 Harley Davidson Motorcycle VIN 1HD1FCW11XY644279

One Pace Arrow Trailer VIN 4P2AB2422SU002658

REAL PROPERTY

Property located at 42 Fulgham Loop, Tylertown, Walthall County, MS more particularly described as: Beginning at the Northwest corner of the W½ of the NW¼ of the SE¼ of Section 15, Township 3 North, Range 11 East, and run East a distance of 450 feet; thence run South to the center of the public paved road; thence run Southwesterly along the center of said road to a point where said road intersects and splits with another road; thence run in a Northwesterly and then Westerly direction along said North road to the West line of said twenty; thence run North to the point of beginning, containing

eight (8) acres, more or less.

Also, beginning at the Southwest corner of the $W\frac{1}{2}$ of the $SW\frac{1}{4}$ of the $NE\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East and run North a distance of 388 feet; thence run East a distance of 450 feet; thence run South a distance of 388 feet to the South line of said twenty; thence run West a distance of 450 feet to the Southwest corner of said twenty and the place of beginning. Containing four (4) acres, more or less. Containing in aggregate twelve (12) acres, more or less.

LESS AND EXCEPT: Commence at the Northwest corner of the $W\frac{1}{2}$ of the $NW\frac{1}{4}$ of $SE\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East and run East a distance of 450 feet; thence run South to the center of the public paved road to the point of beginning of the land described herein; thence run North a distance of 580 feet; thence run West a distance of 150 feet; thence run South a distance of 580 feet, more or less, to the center of said public paved road, thence run Easterly along centerline of said road a distance of 150 feet, more or less, and back to the point of beginning and containing 2.0 acres, more or less, and being a part of the $NW\frac{1}{4}$ of $SE\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East, Walthall County, Mississippi. (Book 365, Page 468)

Property located at 42 Possum Trot Road, Tylertown, Walthall County, MS more particularly described as:

PARCEL ONE

Commence at the SW corner of the $SW\frac{1}{4}$ of $NE\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East, Walthall County, Mississippi; thence run North 0 degrees 21 minutes 07 seconds West along the West line of the above said forty for 388.00 feet to the Point of Beginning; thence continue North 0 degrees 21 minutes 07 seconds West along the above said West line for 151.82 feet; thence North 89 degrees 49 minutes 45 seconds East for 633.95 feet; thence South 8 degrees 24 minutes 27 seconds East for 1051.20 feet to the North right of way line of a Paved Public Road; thence South 76 degrees 35 minutes 59 seconds West along the above said North right of way line for 177.79 feet; thence along a curve to the left with a delta angle of 03 degrees 13 minutes 11 seconds having a radius of 3033.14 feet and a arc length of 170.44 feet, with a chord bearing and distance of South 77 degrees 14 minutes 35 seconds West along the above said North right of way line for 170.42 feet; thence North 0 degrees 22 minutes 55 seconds West for 966.37 feet; thence South 89 degrees 49 minutes 45 seconds West for 441.12 feet back to the Point of Beginning, said parcel containing 8.20 acres, more or less, and is located in the $SW\frac{1}{4}$ of $NE\frac{1}{4}$ and the $NW\frac{1}{4}$ of $SE\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East, Walthall County, Mississippi.

PARCEL TWO

Beginning at a point 198 feet North of the Southwest corner of the $NW\frac{1}{4}$ of the $SE\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East; thence run North 495 feet, thence run East to the center of the public road, thence run

Southwest along the center of said road to the place of beginning; being located in the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East. (Book 321, Page 64)

Property located at 204 Highway 586, Kokomo, Marion County, MS, more particularly described as: Commencing at the Southwest corner of Section 32, Township 4 North, Range 12 East, Marion County, Mississippi, and thence run North a distance of 3,954.1 feet to the South right of way of Mississippi State Highway No. 586 for the point of beginning; thence run South 89 degrees 14 minutes East along said South right of way of Mississippi State Highway No. 586 a distance of 105.0 feet; thence run South a distance of 135.9 feet; thence run North 84 degrees West a distance of 105.6 feet; thence run North a distance of 124.9 feet back to the point of beginning; said parcel containing 0.31 acre, more or less, and being situated in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 32, Township 4 North, Range 12 East, Marion County, Mississippi. (Book 1374, Page 30)

5. A forfeiture hearing was held on May 19, 2010. Based on the evidence presented at said hearing, the Court found that the United States clearly established the required nexus between the two tracts of real property described above, and owned by **GARY MARK STEWART**, and the offense for which the defendant, **GARY MARK STEWART**, has been found guilty. Accordingly,

the following real property owned by defendant, **GARY MARK STEWART**, is subject to forfeiture to the United States pursuant to 21 U.S.C. § 853:

Property located at 42 Fulgham Loop, Tylertown, Walthall County, MS more particularly described as: Beginning at the Northwest corner of the W $\frac{1}{2}$ of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East, and run East a distance of 450 feet; thence run South to the center of the public paved road; thence run Southwesterly along the center of said road to a point where said road intersects and splits with another road; thence run in a Northwesterly and then Westerly direction along said North road to the West line of said twenty; thence run North to the point of beginning, containing eight (8) acres, more or less.

Also, beginning at the Southwest corner of the W $\frac{1}{2}$ of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East and run North a distance of 388 feet; thence run East a distance of 450 feet; thence run South a distance of 388 feet to the South line of said twenty; thence run West a distance of 450 feet to the Southwest corner of said twenty and the place of beginning. Containing four (4) acres, more or less. Containing in aggregate twelve (12) acres, more or less.

LESS AND EXCEPT: Commence at the Northwest corner of the W½ of the NW¼ of SE¼ of Section 15, Township 3 North, Range 11 East and run East a distance of 450 feet; thence run South to the center of the public paved road to the point of beginning of the land described herein; thence run North a distance of 580 feet; thence run West a distance of 150 feet; thence run South a distance of 580 feet, more or less, to the center of said public paved road, thence run Easterly along centerline of said road a distance of 150 feet, more or less, and back to the point of beginning and containing 2.0 acres, more or less, and being a part of the NW¼ of SE¼ of Section 15, Township 3 North, Range 11 East, Walthall County, Mississippi. (Book 365, Page 468)

Property located at 42 Possum Trot Road, Tylertown, Walthall County, MS more particularly described as:

PARCEL ONE

Commence at the SW corner of the SW ¼ of NE ¼ of Section 15, Township 3 North, Range 11 East, Walthall County, Mississippi; thence run North 0 degrees 21 minutes 07 seconds West along the West line of the above said forty for 388.00 feet to the Point of Beginning; thence continue North 0 degrees 21 minutes 07 seconds West along the above said West line for 151.82 feet; thence North 89 degrees 49 minutes 45 seconds East for 633.95 feet; thence South 8 degrees 24 minutes 27 seconds East for 1051.20 feet to the North right of way line of a Paved Public Road; thence South 76 degrees 35 minutes 59 seconds West along the above said North right of way line for 177.79 feet; thence along a curve to the left with a delta angle of 03 degrees 13 minutes 11 seconds having a radius of 3033.14 feet and a arc length of 170.44 feet, with a chord bearing and distance of South 77 degrees 14 minutes 35 seconds West along the above said North right of way line for 170.42 feet; thence North 0 degrees 22 minutes 55 seconds West for 966.37 feet; thence South 89 degrees 49 minutes 45 seconds West for 441.12 feet back to the Point of Beginning, said parcel containing 8.20 acres, more or less, and is located in the SW ¼ of NE ¼ and the NW ¼ of SE ¼ of Section 15, Township 3 North, Range 11 East, Walthall County, Mississippi.

PARCEL TWO

Beginning at a point 198 feet North of the Southwest corner of the NW ¼ of the SE ¼ of Section 15, Township 3 North, Range 11 East; thence run North 495 feet, thence run East to the center of the public road, thence run Southwest along the center of said road to the place of beginning; being located in the NW ¼ of the SE ¼ of Section 15, Township 3 North, Range 11 East. (Book 321, Page 64)

Property located at 204 Highway 586, Kokomo, Marion County, MS, more particularly described as: Commencing at the Southwest corner of Section 32, Township 4 North, Range 12 East, Marion County, Mississippi, and thence run North a distance of 3,954.1 feet to the South right of way of

Mississippi State Highway No. 586 for the point of beginning; thence run South 89 degrees 14 minutes East along said South right of way of Mississippi State Highway No. 586 a distance of 105.0 feet; thence run South a distance of 135.9 feet; thence run North 84 degrees West a distance of 105.6 feet; thence run North a distance of 124.9 feet back to the point of beginning; said parcel containing 0.31 acre, more or less, and being situated in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 32, Township 4 North, Range 12 East, Marion County, Mississippi. (Book 1374, Page 30)

6. The Court further finds that the United States failed to establish a direct nexus between the offense and the personal property described above and owned by **GARY MARK STEWART**; however the Court found that the Government is entitled to a money judgment in the amount of \$225,000.00 against **GARY MARK STEWART**. A money judgment in the amount of \$225,000 shall be included in the amended sentencing order of the defendant, **GARY MARK STEWART**, and the United States may take steps to collect the judgment from any property of the defendant, including, but not limited to the defendant's interest in the following personal property:

\$23,922.39 in Trustmark National Bank Account seized from Gary Stewart

\$2,918.27 in Trustmark National Bank Account seized from Gary Stewart

\$704.11 in Trustmark National Bank Account seized from Gary Stewart

\$534.97 in Citizens Bank Account seized from Gary Stewart

\$3,030.00 in U. S. Currency seized from Gary Stewart

\$19,727.89 in U. S. Currency seized from Gary Stewart

One 2003 Harley Davidson Motorcycle VIN 1HD1BYB123Y070316

One 1999 Harley Davidson Motorcycle VIN 1HD1FCW11XY644279

One Pace Arrow Trailer VIN 4P2AB2422SU002658

in accordance with the substitute asset provisions of 21 U.S.C. § 853(p). The substitute assets shall be credited toward the money judgment rendered herein against **GARY MARK STEWART**.

7. On January 19, 2010, **GAVIN S. STEWART** pled guilty to Count Three (3) of the superseding Indictment charging him with conspiring to possess with the intent to distribute more than five hundred (500) grams of methamphetamine in violation of Title 21 U.S.C. § 846.

8. The following property was included in the Government's Motion for a Preliminary Order of Forfeiture as property belonging to defendant **GAVIN S. STEWART** which the Government is seeking to forfeit:

REAL PROPERTY

Property located at 42 Possum Trot Road, Tylertown, Walthall County, MS more particularly described as: Commence at the NE corner of the SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East, Walthall County, Mississippi for the Point of Beginning; thence South 0 degrees 24 minutes 43 seconds East along the East line of the above said forty for 1081.91 feet to the centerline of a gravel drive; thence North 73 degrees 44 minutes 19 seconds West along the above said centerline for 109.61 feet; thence North 0 degrees 24 minutes 43 seconds West for 553.45 feet; thence North 89 degrees 58 minutes 26 seconds West for 852.72 feet; thence North 0 degrees 22 minutes 55 seconds West for 168.82 feet; thence North 89 degrees 58 minutes 37 seconds East for 306.82 feet; thence North 0 degrees 22 minutes 55 seconds West for 328.73 feet to the NW corner of the E $\frac{1}{2}$ of the SW $\frac{1}{4}$ of NE $\frac{1}{4}$; thence South 89 degrees 58 minutes 26 seconds East along the North line of the above said E $\frac{1}{2}$ for 650.64 feet back to the Point of Beginning, said parcel contains 10.00 acres, more or less, and is located in the SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East, Walthall County, Mississippi. (Book 320, Page 703)

Property located at 42 Possum Trot Road, Tylertown, Walthall County, MS more particularly described as: Begin at the Northwest corner of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East, Walthall County, Mississippi, and thence run North 89 degrees 20 minutes 53 seconds East along the North line of the above said forty a distance of 232.54 feet; thence run South 00 degrees 24 minutes 43 seconds East a distance of 818.84 feet to the North right of way line of a paved public road; thence along a curve to the left with a delta angle of 35 degrees 55 minutes 25 seconds, having a radius of 619.10 feet and an arc length of 388.17 feet, with a chord bearing and distance of South 37 degrees 06 minutes 17 seconds West along the above said North right of way line a distance of 381.84 feet to the West line of the above said forty; thence run North 00 degrees 24 minutes 43 seconds West along the above said West line a distance of 1,120.73 feet and back to the point of beginning; said parcel containing five (5) acres, more or

less, and is situated in the SE ¼ of the NE ¼ of Section 15, Township 3 North, Range 11 East, Walthall County, Mississippi. (Book 337, Page 522)

PERSONAL PROPERTY

\$154.27 in Trustmark National Bank Account seized from Gavin Stewart

\$1,208.28 in Trustmark National Bank Account seized from Gavin Stewart

\$1,047.87 in First Southern Bank Account seized from Gavin Stewart

One 1979 Corvette VIN 1Z8749S439476

9. A forfeiture hearing was held on May 19, 2010. Based on the evidence presented at said hearing, the Court found that the United States clearly established the required nexus between the real property described above and the 1979 Corvette VIN 1Z8749S439476, owned by **GAVIN S. STEWART**, and the offense for which the defendant, **GAVIN S. STEWART**, has been found guilty. Accordingly, the following real property and the 1979 Corvette VIN 1Z8749S439476 are subject to forfeiture to the United States pursuant to 21 U.S.C. § 853:

Property located at 42 Possum Trot Road, Tylertown, Walthall County, MS more particularly described as: Commence at the NE corner of the SW ¼ of NE ¼ of Section 15, Township 3 North, Range 11 East, Walthall County, Mississippi for the Point of Beginning; thence South 0 degrees 24 minutes 43 seconds East along the East line of the above said forty for 1081.91 feet to the centerline of a gravel drive; thence North 73 degrees 44 minutes 19 seconds West along the above said centerline for 109.61 feet; thence North 0 degrees 24 minutes 43 seconds West for 553.45 feet; thence North 89 degrees 58 minutes 26 seconds West for 852.72 feet; thence North 0 degrees 22 minutes 55 seconds West for 168.82 feet; thence North 89 degrees 58 minutes 37 seconds East for 306.82 feet; thence North 0 degrees 22 minutes 55 seconds West for 328.73 feet to the NW corner of the E ½ of the SW ¼ of NE ¼; thence South 89 degrees 58 minutes 26 seconds East along the North line of the above said E ½ for 650.64 feet back to the Point of Beginning, said parcel contains 10.00 acres, more or less, and is located in the SW ¼ of NE ¼ of Section 15, Township 3 North, Range 11 East, Walthall County, Mississippi. (Book 320, Page 703)

Property located at 42 Possum Trot Road, Tylertown, Walthall County, MS more particularly described as: Begin at the Northwest corner of the SE ¼

of the NE $\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East, Walthall County, Mississippi, and thence run North 89 degrees 20 minutes 53 seconds East along the North line of the above said forty a distance of 232.54 feet; thence run South 00 degrees 24 minutes 43 seconds East a distance of 818.84 feet to the North right of way line of a paved public road; thence along a curve to the left with a delta angle of 35 degrees 55 minutes 25 seconds, having a radius of 619.10 feet and an arc length of 388.17 feet, with a chord bearing and distance of South 37 degrees 06 minutes 17 seconds West along the above said North right of way line a distance of 381.84 feet to the West line of the above said forty; thence run North 00 degrees 24 minutes 43 seconds West along the above said West line a distance of 1,120.73 feet and back to the point of beginning; said parcel containing five (5) acres, more or less, and is situated in the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East, Walthall County, Mississippi. (Book 337, Page 522)

10. The Court further finds that the United States failed to establish a direct nexus between the offense and the three bank accounts described above and owned by GAVIN S. STEWART; however the Court found that the Government is entitled to a money judgment in the amount of \$225,000.00 against GAVIN S. STEWART. A money judgment in the amount of \$225,000 shall be included in the amended sentencing order of the defendant, GAVIN S. STEWART, and the United States may take steps to collect the judgment from any property of the defendant, including, but not limited to the defendant's interest in the following personal property:

\$154.27 in Trustmark National Bank Account seized from Gavin Stewart

\$1,208.28 in Trustmark National Bank Account seized from Gavin Stewart

\$1,047.87 in First Southern Bank Account seized from Gavin Stewart

in accordance with the substitute asset provisions of 21 U.S.C. § 853(p). The substitute assets shall be credited toward the money judgment rendered herein against GAVIN S. STEWART.

11. Upon the entry of this order, the United States is authorized to seize the specific property subject to forfeiture whether held by the defendants or a third party, and to conduct any discovery the court considers necessary in identifying, locating, or disposing of property subject to forfeiture, or substitute assets for such property, in accordance with Fed. R. Crim. P. 32.2(b)(3).

12. The United States Marshal and/or other property custodian for the investigative agency is authorized to take possession and maintain custody of the following property:

GARY MARK STEWART'S PROPERTY

REAL PROPERTY

Property located at 42 Fulgham Loop, Tylertown, Walthall County, MS more particularly described as: Beginning at the Northwest corner of the W $\frac{1}{2}$ of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East, and run East a distance of 450 feet; thence run South to the center of the public paved road; thence run Southwesterly along the center of said road to a point where said road intersects and splits with another road; thence run in a Northwesterly and then Westerly direction along said North road to the West line of said twenty; thence run North to the point of beginning, containing eight (8) acres, more or less.

Also, beginning at the Southwest corner of the W $\frac{1}{2}$ of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East and run North a distance of 388 feet; thence run East a distance of 450 feet; thence run South a distance of 388 feet to the South line of said twenty; thence run West a distance of 450 feet to the Southwest corner of said twenty and the place of beginning. Containing four (4) acres, more or less. Containing in aggregate twelve (12) acres, more or less.

LESS AND EXCEPT: Commence at the Northwest corner of the W $\frac{1}{2}$ of the NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East and run East a distance of 450 feet; thence run South to the center of the public paved road to the point of beginning of the land described herein; thence run North a distance of 580 feet; thence run West a distance of 150 feet; thence run South a distance of 580 feet, more or less, to the center of said public paved road, thence run Easterly along centerline of said road a distance of 150 feet, more or less, and back to the point of beginning and containing 2.0 acres, more or less, and being a part of the NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East, Walthall County, Mississippi. (Book 365, Page 468)

Property located at 42 Possum Trot Road, Tylertown, Walthall County, MS more particularly described as:

PARCEL ONE

Commence at the SW corner of the SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East, Walthall County, Mississippi; thence run North 0 degrees 21 minutes 07 seconds West along the West line of the above said forty for 388.00 feet to the Point of Beginning; thence continue North 0 degrees 21 minutes 07 seconds West along the above said West line for 151.82 feet; thence North 89 degrees 49 minutes 45 seconds East for 633.95 feet; thence South 8 degrees 24 minutes 27 seconds East for 1051.20 feet to the North right of way line of a Paved Public Road; thence South 76 degrees 35 minutes 59 seconds West along the above said North right of way line for

177.79 feet; thence along a curve to the left with a delta angle of 03 degrees 13 minutes 11 seconds having a radius of 3033.14 feet and a arc length of 170.44 feet, with a chord bearing and distance of South 77 degrees 14 minutes 35 seconds West along the above said North right of way line for 170.42 feet; thence North 0 degrees 22 minutes 55 seconds West for 966.37 feet; thence South 89 degrees 49 minutes 45 seconds West for 441.12 feet back to the Point of Beginning, said parcel containing 8.20 acres, more or less, and is located in the SW $\frac{1}{4}$ of NE $\frac{1}{4}$ and the NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East, Walthall County, Mississippi.

PARCEL TWO

Beginning at a point 198 feet North of the Southwest corner of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East; thence run North 495 feet, thence run East to the center of the public road, thence run Southwest along the center of said road to the place of beginning; being located in the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East. (Book 321, Page 64)

Property located at 204 Highway 586, Kokomo, Marion County, MS, more particularly described as: Commencing at the Southwest corner of Section 32, Township 4 North, Range 12 East, Marion County, Mississippi, and thence run North a distance of 3,954.1 feet to the South right of way of Mississippi State Highway No. 586 for the point of beginning; thence run South 89 degrees 14 minutes East along said South right of way of Mississippi State Highway No. 586 a distance of 105.0 feet; thence run South a distance of 135.9 feet; thence run North 84 degrees West a distance of 105.6 feet; thence run North a distance of 124.9 feet back to the point of beginning; said parcel containing 0.31 acre, more or less, and being situated in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 32, Township 4 North, Range 12 East, Marion County, Mississippi. (Book 1374, Page 30)

PERSONAL PROPERTY

\$23,922.39 in Trustmark National Bank Account seized from Gary Stewart

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One 1999 Harley Davidson Motorcycle VIN 1HD1FCW11XY644279

One Pace Arrow Trailer VIN 4P2AB2422SU002658

GAVIN S. STEWART'S PROPERTY

REAL PROPERTY

Property located at 42 Possum Trot Road, Tylertown, Walthall County, MS more particularly described as: Commence at the NE corner of the SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East, Walthall County, Mississippi for the Point of Beginning; thence South 0 degrees 24 minutes 43 seconds East along the East line of the above said forty for 1081.91 feet to the centerline of a gravel drive; thence North 73 degrees 44 minutes 19 seconds West along the above said centerline for 109.61 feet; thence North 0 degrees 24 minutes 43 seconds West for 553.45 feet; thence North 89 degrees 58 minutes 26 seconds West for 852.72 feet; thence North 0 degrees 22 minutes 55 seconds West for 168.82 feet; thence North 89 degrees 58 minutes 37 seconds East for 306.82 feet; thence North 0 degrees 22 minutes 55 seconds West for 328.73 feet to the NW corner of the E $\frac{1}{2}$ of the SW $\frac{1}{4}$ of NE $\frac{1}{4}$; thence South 89 degrees 58 minutes 26 seconds East along the North line of the above said E $\frac{1}{2}$ for 650.64 feet back to the Point of Beginning, said parcel contains 10.00 acres, more or less, and is located in the SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East, Walthall County, Mississippi. (Book 320, Page 703)

Property located at 42 Possum Trot Road, Tylertown, Walthall County, MS more particularly described as: Begin at the Northwest corner of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East, Walthall County, Mississippi, and thence run North 89 degrees 20 minutes 53 seconds East along the North line of the above said forty a distance of 232.54 feet; thence run South 00 degrees 24 minutes 43 seconds East a distance of 818.84 feet to the North right of way line of a paved public road; thence along a curve to the left with a delta angle of 35 degrees 55 minutes 25 seconds, having a radius of 619.10 feet and an arc length of 388.17 feet, with a chord bearing and distance of South 37 degrees 06 minutes 17 seconds West along the above said North right of way line a distance of 381.84 feet to the West line of the above said forty; thence run North 00 degrees 24 minutes 43 seconds West along the above said West line a distance of 1,120.73 feet and back to the point of beginning; said parcel containing five (5) acres, more or less, and is situated in the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 15, Township 3 North, Range 11 East, Walthall County, Mississippi. (Book 337, Page 522)

PERSONAL PROPERTY

\$154.27 in Trustmark National Bank Account seized from Gavin Stewart

\$1,208.28 in Trustmark National Bank Account seized from Gavin Stewart

\$1,047.87 in First Southern Bank Account seized from Gavin Stewart

One 1979 Corvette VIN 1Z8749S439476

13. The United States is authorized to commence any applicable proceeding to comply with statutes governing third party rights, including giving notice of this order.

14. The United States shall publish notice of the Preliminary Order of Forfeiture on the Government's official Internet website, www.forfeiture.gov, and, to the extent practicable, will provide written notice to any person, other than the defendants, having or claiming a legal interest in the subject property, advising such person of his or her right to file a petition contesting the forfeiture in accordance with 21 U.S.C. § 853(n) and Rule 32.2(c). Any person, other than the above named defendants, asserting a legal interest in the subject property may, within thirty days of the final publication of notice or receipt of notice, whichever is earlier, petition the court for a hearing without a jury to adjudicate the validity of his alleged interest in the subject property.

15. Any petition filed by a third party asserting an interest in the subject property shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the subject property, the time and circumstances of the petitioner's acquisition of the right, title or interest in the subject property, any additional facts supporting the petitioner's claim, and the relief sought.


16. After the disposition of any motion filed under Fed. R. Crim. P. 32.2(c)(1)(A) and before a hearing on the petition, discovery may be conducted in accordance with the Federal Rules of Civil Procedure upon a showing that such discovery is necessary or desirable to resolve factual issues.

17. The United States shall have clear title to the subject property following the Court's disposition of all third party interest, or, if none, following the expiration of the period provided in 21 U. S. C. § 853(n)(2) for the filing of third party petitions.

18. If no third party files a timely claim, this order shall become the Final Order of Forfeiture, as provided by Fed. R. Crim. P. 32.2(c)(2) and the United States shall have clear title to the subject property.


19. The Court shall retain jurisdiction to enforce this order, and to amend it as necessary, pursuant to Fed. R. Crim. P. 32.2(e).

SO ORDERED AND ADJUDGED this the 27th day of Sept., 2010.


UNITED STATES DISTRICT COURT JUDGE

APPROVED AS TO FORM:

J. SCOTT GILBERT
Assistant United States Attorney


SCOTT JOSEPH SCHWARTZ
Attorney for Defendant Gary Mark Stewart

NELSON ESTESS
Attorney for Defendant Gavin S. Stewart